IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 538 of 2006 (M/B)

1. M/s Rice Overseas,
   KD-3A, Ashok Vihar,
   Phase I, Delhi, - 110052,
   Through its Proprietor.
2. Sri Shyam Bajaj, Proprietor,
   M/s Rice Overseas,
   KD-3A, Ashok Vihar,
   Phase I, Delhi – 110052. …… Petitioners

Versus

1. Union of India,
   through Secretary, Custom Central Excise,
   New Delhi.
2. Commissioner of Custom,
   Custom Commissionerate,
   5th Floor, Kendriya Bhawan,
   Aliganj, Lucknow.
3. Joint Commissioner of Custom,
   Custom Commissionerate,
   5th Floor, Kendriya Bhawan,
   Aliganj, Lucknow.
4. Assistant Director,
   Directorate of Revenue Intelligence,
   Regional Unit, 3/71 Vivek Khand,
   Gomti Nagar, Lucknow.
5. Circle Inspector Custom,
   Khatima Circle,
   District Udham Singh Nagar. …….. Respondents

Mr. N.S. Negi, Advocate for the petitioners.
Mr. V.B.S. Negi, Assistant Solicitor General for the respondents.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. N.S. Negi, Advocate for the petitioners.

Mr. V.B.S. Negi, Assistant Solicitor General for the respondents.

They are heard.

2. The petitioners have filed this writ petition for the following reliefs:

"A. Issue a writ, order or direction in the nature of certiorari to quash the order dated 23.3.2006 and 28.3.2006 (filed as Annexure-9 and 10) passed by the respondent No. 3.

B. Issue a writ, order or direction in the nature of mandamus directing the respondents to release the garlic detained by the Directorate of Revenue Intelligence Officer on 16.10.2005 at Khatima District Udham Singh Nagar.

C. Issue a writ, order or direction in the nature of mandamus directing the respondents to permit the petitioner for deportation of the aforesaid consignments bills entry No. 235/05.06 and 236/05.06 dated 16.10.2005.

D. Issue a writ, order of direction in the nature of mandamus directing the respondents not to destroy the aforesaid seized goods till the pendency of the present writ petition.

E. Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

F. Award the cost of the writ petition to the petitioner."

3. Admittedly, the petitioners have a statutory remedy of filing appeal against the impugned orders dated 23.03.2006 and 28.03.2006 (Annexure 9 and 10) under the provisions of the Customs Act, 1962.

4. In this view of the matter, we decline to entertain the writ petition leaving it open to the petitioners to avail the statutory remedy of filing appeal against the impugned orders.

5. With the above observation, the writ petition stands disposed of.

6. With the above order, CLMA No. 5458 of 2006 also stands disposed of.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**
06.05.2006 **06.05.2006**

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